

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
NORTHERN DIVISION**

ROTECH HEALTHCARE, INC.,

Plaintiff,

vs.

ANGELA MILLER, ET. AL.,

Defendants.

Case No. 2:03CV77SNL

ORDER

This matter is before the Court on Movant United States Arbitration and Mediation Midwest, Inc.'s (hereinafter referred to as U.S.A.&M) motion for payment of mediation (#98), filed May 24, 2005. As of today's date, no party has filed a response.

In its motion, Movant U.S.A.&M avers that mediation sessions were held among the parties on December 16, 2004 and January 21, 2005 with Mr. Eugene Buckley acting as the mediator.¹ Movant further avers that the parties executed an "Agreement to Mediate" (Exhibit A) in which they agreed to divide all costs of mediation equally; and to be responsible for all costs in connection with collection of said mediator's fee, including a reasonable attorneys' fee. Movant further avers that plaintiff Rotech has paid fully its bill of costs in connection with the mediation. However, defendants Angela Miller, Pamela Warfield, Patti Hayden and Mark Twain Oxygen &

¹The instant motion only refers to a mediation session on January 21, 2005; yet seeks fees in the amounts of \$422.02 and \$263.64. Furthermore, the instant motion attaches an invoice which only reflects mediation costs in the amount of \$422.02 incurred on December 16, 2004. Pursuant to communication between the Court and the Movant, the Movant has now filed a supplemental attachment to its motion evidencing mediation costs in the amount of \$263.64 incurred on January 21, 2005, as well as the mediation costs of \$422.02 incurred on December 16, 2004. *See*, Document #99, filed June 7, 2005.

Medical Equipment have, to date, failed and refuse to pay the costs associated with the two (2) mediation sessions.

After careful review of this matter, the Court will grant the Movant's motion for payment of mediation costs and order the defendants to pay into the Court's treasury the amounts of \$422.02 and \$263.64 for the total amount of \$685.66. The Court strongly advises defendants to pay these outstanding costs since failure to do so risks a finding of civil contempt and the imposition of sanctions, including but not limited to, monetary sanctions and/or incarceration.


Accordingly,

IT IS HEREBY ORDERED that Movant U.S.A.&M's motion for payment of costs of mediation (#98) be and is **GRANTED**.

IT IS FURTHER ORDERED that defendants Angela Miller, Pamela Warfield, Patti Hayden and Mark Twain Oxygen & Medical Equipment shall, on or before June 15, 2005, pay into the Court's treasury the full amount of \$685.66 as mediation costs incurred on December 16, 2004 and January 21, 2005. No extensions of time shall be granted except for good cause shown. Failure to comply with the Court's order risks a finding of civil contempt and the imposition of sanctions, including but not limited to, monetary sanctions and/or incarceration.

IT IS FINALLY ORDERED that any request for attorneys' fees in connection with the filing of the instant motion will only be entertained by the Court upon a formal request detailing such fees and a showing of reasonableness.

Dated this 7th day of June, 2005.



SENIOR UNITED STATES DISTRICT JUDGE

